IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL NO.958 OF 2005
IN
NOTICE OF MOTION NO.3489 OF 1996
IN
SUIT NO.4067 OF 1996

M/s.Gautam Builders & anr. .. Appellants

v/s.

Mr.Ranchod Kanji Dhodi
(since deceased)

1a. Smt.Rama Ranchod Dhodi & ors. .. Respondents

Mr.Sanjay Jain i/by M/s.Pillai Anand & Co.for the appellants.

Mr.R.D.Soni for the respondents.

CORAM : R.M.LODHA AND
D.G.KARNIK, JJ.

DATED : 24th November, 2005

P.C.

Heard Mr.Sanjay Jain, the learned counsel for the appellant.

2. The learned motion Judge at the ad-interim stage recorded the prima facie finding that the agreement dated 16.2.1982 of which specific performance is sought by the appellants-plaintiffs is bogus document. We asked the learned counsel for the appellants to show us the original document. The learned counsel for the appellants submitted that if some time was granted, he would produce the same. The request is not bonafide and designed to gain time.

3. In this backdrop, we find no justifiable ground to take the view different from the view taken by the learned Single Judge. Besides that, the learned motion Judge has rightly noticed that though the consideration as per the said agreement is Rs.12,50,000/- but so far the appellants-plaintiffs have made payment of Rs.5,26,000/- only.

4. We do not intend to deal with the aspects at length since the notice of motion is pending and any observation made by us may affect the fair consideration of the notice of motion on merits. However, no interference is called for in the impugned order. Appeal is dismissed in limine.

Oral prayer for stay is rejected.

(R.M.LODHA, J.)

(D.G. KARNIK, J.)